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MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
SIERRA HEARING ROOM
SACRAMENTO, CALIFORNIA

MONDAY, JUNE 6, 2005

10:00 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Ms. Rosario Marin

Mr. Carl Washington

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Ms. Marie Carter, Chief Counsel

Mr. Howard Levenson, Deputy Director

Mr. Michael Bledsoe, Staff Counsel

Mr. John Bell

Mr. Mark de Bie, Manager, Permitting & Inspection Branch

Mr. Wes Mindermann, Supervisor, Solid Waste Cleanup
Programs Section

Mr. Carla Repucci

Mr. Bernie Vlach

Mr. Scott Walker, Manager, Remediation, Closure, &
Technical Services Branch

ALSO PRESENT

Mr. Imelda Cragin, County of Santa Barbara

Mr. Evan Edgar, California Refuse Removal Council

Mr. Richard Gomez, Los Angeles County Flood Control
District

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Terry Leveille, TL& Associates, representing
California Tire Dealer's Association

Mr. Chuck White, Waste Management

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1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone.

3 Welcome to the May 2nd meeting of the Permitting and
4 Enforcement Committee. We do have agendas on the back
5 table, and if anyone would like to address the Committee,
6 there are speaker's slips as well. Please fill them out
7 and bring them forward to Donnell, and then you will have
8 an opportunity to address our committee.

9 Also, I'd like to remind all of you, please put
10 your cell phones and pagers on the silent mode. We would
11 appreciate that. And, Donnell, would you please call the
12 roll.

13 SECRETARY DUCLO: Members Marin?

14 COMMITTEE MEMBER MARIN: Here.

15 SECRETARY DUCLO: Washington?

16 Mulé?

17 CHAIRPERSON MULÉ: Here.

18 Okay. Are there any ex partes?

19 COMMITTEE MEMBER MARIN: No, I'm up to date.

20 CHAIRPERSON MULÉ: As am I.

21 And let's get started right away with the Deputy
22 Directors's report.

23 Howard.

24 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
25 Chair. And good morning, Member Marin. I have a couple

1 of items I'd like to report to you.

2 First of all, I think, as you may have heard, Don
3 Dier has come out of retirement to assist us with
4 post-closure land use issues. Specifically, Don's going
5 to be helping us develop and implement a workshop on these
6 kinds of issues later this fall. Our last workshop on
7 this topic was held in 1992. So since then, you know,
8 we've been involved in a lot of post-closure land use
9 issues and sites.

10 And the Governor has made Brown fields and
11 related in-fill development a priority in his
12 environmental action plan. So we'll be planning this
13 workshop and involving you. And as we move along, we're
14 going to try and have a pretty comprehensive and dynamic
15 agenda. But we'll also be trying to provide ongoing
16 information and assistance to all the regulatory parties
17 that are involved and developers and so on, so they have a
18 better handle on at least our role in post-closure land
19 use issues. So look to that in the fall, and we're glad
20 that Don is helping us out on that.

21 I'd like to give you a quick summary of the LEA
22 conference, which both of you were at. And I'm kind of
23 biased, you know, it's best ever, and how can we top this
24 one, but that's what we're hearing. The feedback that
25 we've gotten from the attendees so far indicates that we

1 really hit it on target in terms of content and location
2 and format and so on.

3 We had a great steering committee that had about
4 half LEAs and half CIWMB staff. And some of them ended up
5 being moderators and presenters. We also had Mindy Fox
6 and her staff who did all the logistics. And then folks
7 from admin, Bob Davila and Stuart Clark and Joe
8 Guadagnino. Between them and Mindy's group, it was pretty
9 seamless. And I don't think you noticed all the things
10 that were going on behind the scenes, and I sure didn't,
11 so it was very smooth.

12 Our head count was 298, including vendors, and
13 speakers. That's our highest ever. Had the highest turn
14 out of directors of environmental health, and of course
15 the two of you and Ms. Peace as well. So I want to thank
16 you for your support. We did get a lot of positive
17 feedback from LEAs that having you there meant a lot to
18 them, and they were able to talk to you on the various
19 issues.

20 Third, I wanted to just let you know that our
21 training on, what we call, A to Z of the solid waste
22 permit process where C is for CEQA, that training
23 continues. We've completed 4 venues: Santa Ana,
24 Sacramento, Los Angeles, and Redding. We have one more
25 scheduled later in this week in San Diego. And this is a

1 2-day course on the whole gamut of the permitting process
2 and the role of CEQA in that. It includes mostly LEAs,
3 But there are some operators and consultants and planners.
4 And we've had about 120 attend so far.

5 And lastly, just in terms of upcoming activities,
6 as Mr. Leary reported to the Board last month, we are
7 developing a number of action plans for your consideration
8 on priority issues. One of those will include an action
9 plan on enforcement and compliance and training issues.
10 That will likely include, for example, policy workshops
11 under the Committee's auspices on the LEA certification
12 operator training issue, and on enforcement approaches and
13 gaps in both legislation and policy.

14 So we hope to have workshops before the Committee
15 later this year on those kinds of issues.

16 And with that, I'll close, unless you have any
17 questions, and we can proceed to the items.

18 CHAIRPERSON MULÉ: Do we have any questions?
19 First let me reflect that Board Member Washington has
20 joined our meeting. And, Mr. Washington, are you up to
21 date on your ex partes?

22 COMMITTEE MEMBER WASHINGTON: I'm up to date.

23 CHAIRPERSON MULÉ: Thank you very much.

24 Chair Marin.

25 COMMITTEE MEMBER MARIN: One of the things that

1 you -- first of all, regarding the LEA, I'm so glad I was
2 there, but how can you beat Disneyland. I mean 298 people
3 that then had the opportunity to spend some time in the
4 Happiest Place on Earth. I don't know how anybody did.

5 DEPUTY DIRECTOR LEVENSON: Now marketing angle
6 there.

7 COMMITTEE MEMBER MARIN: I think that what this
8 shows, quite frankly, that location is truly important,
9 you know, aside from the fact that we had the Board
10 meeting scheduled there as well. You know, people that
11 were coming to the Board meeting also then had the
12 opportunity to go there. Or the people that were going to
13 the LEA had the opportunity to go to the Board meeting,
14 because we did have quite a few people showing up for the
15 Board meeting that I had not anticipated.

16 So I think that that tells us that when we plan
17 ahead, I think you get a lot of kudos for planning all of
18 this. I don't know whether it was really planned or just
19 fate that brought all of that together.

20 When we plan our conferences, our other
21 conferences that we looked at all of these things so that
22 we get the attendance that I think we deserve, in the
23 sense that the more we have to give, the more people will
24 come. But if the location is not right and there are
25 other things going on, then they're not.

1 So I think that you deserve a lot of kudos for
2 that, but you really can't compete and you can't take all
3 the credit, because you had Disneyland by your side.

4 DEPUTY DIRECTOR LEVENSON: We'll give Walt some
5 credit.

6 (Laughter.)

7 COMMITTEE MEMBER MARIN: It was great though. It
8 was great. I think it, for me, was an opportunity to meet
9 many of the people. I had met quite a few of them anyway
10 on my travels, so it was nice to see them there. And I
11 know good things came from it, so I'm glad we had that.

12 CHAIRPERSON MULÉ: Thank you, Madam chair. And
13 I, too, just want to concur with some of your comments. I
14 had an opportunity to attend several of the sessions and
15 was impressed with, number 1, the speakers, but the
16 content of the sessions as well. And we're already
17 talking about the program for next year, including
18 possibly a half day session just on illegal dumping,
19 because that seemed to be a very popular session that was
20 well attended.

21 And I do just want to publicly thank, Howard, you
22 and your staff and Mindy, you know, everybody for putting
23 together a fabulous conference. And where is Bob Davila?
24 I told him I was going to embarrass him. He does an
25 outstanding job of our A/V work. I mean, I've seen him at

1 the HHW conference, here, the LEA conference. And, again,
2 he makes it seem so easy. And I know that it's a
3 tremendous amount of work, and I just want to publicly
4 acknowledge him for all his work. He is truly one of
5 those special employees that we don't always recognize, so
6 I just want to have an opportunity to do that.

7 Thank you.

8 Mr. Washington, do you have any comments?

9 COMMITTEE MEMBER WASHINGTON: No, ma'am.

10 CHAIRPERSON MULÉ: Then let's move on, Howard, to
11 Item B.

12 DEPUTY DIRECTOR LEVENSON: Okay. For this agenda
13 we have a loan item, 3 regulatory items and a number of
14 solid waste clean-up items.

15 And the first Item B is consideration of approval
16 of the landfill closure loan program loan for fiscal year
17 2004/2005 and Bernie Vlach will make that presentation.

18 FACILITIES OPERATIONS BRANCH MANAGER VLACH: Good
19 morning, Madam Chair and members. My name is Bernie
20 Vlach. I'm the supervisor responsible for the landfill
21 closure loan program.

22 This item is a follow on to the April 19th, 2005
23 meeting. And, if you recall, you authorized at that time
24 a landfill closure loan to the City of Portola for
25 \$168,000. And as a matter of refreshing, the Board had

1 allocated \$640,000 this fiscal year for the landfill
2 closure loan program. And there were 3 applicants. The
3 one loan award was made, which left about \$472,000
4 remaining in balance.

5 The 2 applicants remaining were the County of
6 Tuolumne, which they were trying to close to Jamestown
7 landfill. They were actually ordered to be closed by the
8 Central Valley Regional Board. And the other was the
9 County of Imperial.

10 Now, the county of Imperial after your discussion
11 with the Board at the last meeting, you directed our staff
12 to go back, and we had to do a little more work with those
13 2 applicants, because their applications were not quite
14 ready. So in the course of those discussions, the county
15 of Imperial essentially dropped out. They found
16 additional money within their budget, and they said they
17 would like to reserve the opportunity to come back in a
18 subsequent fiscal year, because they had some additional
19 facilities in the county that they felt were right for the
20 program. So we said that was fine and they agreed to come
21 back next year.

22 So that left the county of Tuolumne and the
23 Jamestown landfill. They had requested \$500,000 to assist
24 them in closing the landfill that they were ordered to
25 close. In the course of closure, they had a difficult

1 closure. It's a very steep type of situation, and they
2 had not allocated sufficient funds for the project.

3 The \$500,000 was the maximum amount that they
4 could apply for. That's in regulation -- determined in
5 regulation. And, in fact, they actually need more money
6 than that, but this will go along way to helping them
7 close the landfill.

8 So, at this time, since the county of Tuolumne
9 has -- and the staff have reviewed their application and
10 found that they meet the requirements, they're in a small
11 rural landfill operation, that's been ordered to close
12 early. And the staff is recommending that you recommend
13 to the full Board adoption of Resolution 2005-145
14 authorizing the Executive Director to approve a loan to
15 the County of Tuolumne for closure of the Tuolumne County
16 Landfill.

17 CHAIRPERSON MULÉ: Thank you, Bernie.

18 Are there any questions for staff?

19 Chair Marin?

20 COMMITTEE MEMBER MARIN: Well, I just -- are we
21 approving the \$968,000? Is that what we're approving?

22 No, we're only approving the --

23 FACILITIES OPERATIONS BRANCH MANAGER VLACH:
24 \$472,000.

25 COMMITTEE MEMBER MARIN: \$472,000.

1 FACILITIES OPERATIONS BRANCH MANAGER VLACH: They
2 had requested half a million, but because there budget was
3 640 and they're already approved 168 that left a balance
4 of 472. And they've agreed that they would accept the
5 lesser amount.

6 COMMITTEE MEMBER MARIN: Oh, 472, I found it. I
7 found it. It's just that throughout the resolution -- I
8 got it, okay. There's all of the different amounts of
9 money for all of them. Okay, I got it. All right.

10 Then that's okay. I move approval of Resolution
11 -- whatever the resolution is, 2005-145.

12 CHAIRPERSON MULÉ: Do I have a second?

13 COMMITTEE MEMBER WASHINGTON: Second.

14 CHAIRPERSON MULÉ: We have a motion by Chair
15 Marin and seconded by Board Member Washington.

16 Please call the roll.

17 SECRETARY DUCLO: Marin?

18 COMMITTEE MEMBER MARIN: Aye.

19 SECRETARY DUCLO: Washington?

20 COMMITTEE MEMBER WASHINGTON: Aye.

21 SECRETARY DUCLO: Mulé?

22 CHAIRPERSON MULÉ: Aye.

23 Motion masses, and we can put that on fiscal
24 consent.

25 Okay, our next item is Item D, June Board Item

1 28.

2 DEPUTY DIRECTOR LEVENSON: Thank you. This is
3 consideration of adoption of proposed regulations for
4 long-term gas violations at permitted facilities.

5 And this hopefully is the culmination of many
6 years of work on this issue. We'll have a short
7 presentation by John Bell on kind of the history and where
8 we are so that you can consider adoption.

9 CHAIRPERSON MULÉ: Great. Good morning, John.

10 MR. BELL: Good morning, Madam Chair and
11 committee members. This agenda item considers adoption of
12 the proposed regulations for long-term gas violations at
13 permitted facilities. Just to give you a brief history,
14 long-term gas violation practice has been in effect since
15 1994.

16 In December 2000, the California State Auditor
17 published a report containing a finding that the practice
18 was inconsistent with state law. As a result, at its
19 January 2001 meeting, the Board directed staff to work
20 with 2 board members' offices to develop regulatory
21 concepts and bring them to the Board for consideration.

22 To help provide guidance on this violation issue,
23 Board staff also convened a panel of technical experts
24 called the technical advisory group.

25 In September 2003, the P&E Committee directed

1 staff to develop new regulations that codified the
2 existing practice, including 10 regulatory concepts, and a
3 provision for administrative civil penalties.

4 In November 2003, staff held an informal workshop
5 on the draft regulations. And in 2004, the Board directed
6 staff to put the practice into regulations and to notice
7 them for the 45-day comment period.

8 It's important to note that staff was also
9 directed to continue to implement the practice until the
10 new regulations became law. The 45-day comment period
11 ended December 22nd of last year. The changes made are
12 not made to the draft regulations based on these comments,
13 were presented at the January 2005 P&E committee meeting,
14 which also served as a public hearing.

15 At that time, we were directed to initiate an
16 additional 15-day comment period for some small additional
17 changes that were made.

18 The 15-day comment period ended April 22nd, and
19 no comments were received with respect to the limited
20 changes made during that period. Only 1 comment was
21 received that reiterated a comment made during the 45-day
22 comment period.

23 To briefly explain the new regulations, they
24 codify the Board's 11-year practice of concurring with the
25 solid waste facility permit revision for a landfill, that

1 at the same time has a long-term gas violation in effect.

2 These regulations are very limited in scope and
3 application, because they only apply to disposal sites in
4 the permit revision process that have gas violations that
5 take longer than 90 days to correct; that pose no imminent
6 threat to public health, safety and the environment; that
7 are under a notice and order from the enforcement agency,
8 and that are in compliance with that notice and order.

9 Over the past 11 years, the practice has been
10 applied at only 21 facilities. When there is no imminent
11 threat allowing a landfill to operate with a landfill gas
12 violation has to date created no known health or
13 environmental problems.

14 For landfills under the practice, the in-place
15 waste mass will continue to produce about the same levels
16 of landfill gas at the property boundary whether or not
17 waste is accepted. Staff is determined that the proposed
18 regulations are exempt from CEQA pursuant to Section
19 15308, the categorical exemption for actions taken by
20 regulatory agencies to protect the environment.

21 These regulations will result in operators taking
22 action to monitor landfill gas and to reduce emissions
23 below regulatory levels in as short a time as site
24 conditions will allow, resulting in increased protection
25 to the environment.

1 Without these regulations, excessive emissions of
2 landfill decomposition gases and other dis -- from
3 landfills and other disposal sites would continue for a
4 longer period of time.

5 If the Board determines that these proposed
6 regulations are exempt from CEQA, staff will file a notice
7 of exemption with the State Office of Planning and
8 Research.

9 In conclusion, staff recommends adoption of
10 Option 1, finding that the proposed regulation revisions
11 are exempt from CEQA; approving the proposed regulations
12 for adoption; directing staff to complete the rule-making
13 process with OAL and adopting resolution 2005-147.

14 That concludes my presentation.

15 CHAIRPERSON MULÉ: Thank you. We do have one
16 speaker, Chuck White. So if you want to come forward
17 please.

18 MR. WHITE: Thank you, Madam Chair and members of
19 the Committee. Chuck White with Waste Management. We
20 fully support these regulations. We think they'll go a
21 long way to providing some clarity with respect to the
22 obligations of operators who may have long-term gas
23 violations.

24 The only concern we had, which we raised from the
25 very beginning and during the 45-day comment period, was

1 when you have a permit come up for review and you have an
2 ongoing long-term gas violation problem. We believe the
3 language of these regulations would allow you to get that
4 permit as long as you're in compliance with approved gas
5 mitigation measures or a workplan approved by the EA.

6 The only question we have, and we've asked for
7 clarification. In fact, we originally asked that
8 clarification be put in the regulations, but the decision
9 was to put it in the final Statement of Reasons, which
10 unfortunately we don't have available to us, because they
11 haven't been prepared.

12 But it would be to clarify that if you have a
13 compliance order that may have a series of scheduled
14 events going on for, say, 24 months, yet your permit is
15 coming up for renewal in month 6, you're only obligated to
16 be in compliance with that schedule of activities that was
17 supposed to be in place as of that month 6, and you
18 wouldn't have to be fully in compliance with the entire
19 scope of the order or the entire scope of the approved gas
20 mitigation measures. It's just what is required to be in
21 place at the time that the permit comes up for review.

22 So my only purpose of being here today is to
23 just, for the record, ask for clarification and in that
24 language further clarifying language would be put in the
25 final Statement of Reasons.

1 CHAIRPERSON MULÉ: Right. And as I recall, when
2 we did discuss this last time, this was going to be put in
3 the Statement of Reasons. So, Howard, if you want to add
4 anything to that or John?

5 MR. BELL: Oh, no. That's absolutely correct.
6 We will put language to that effect in the Statement of
7 Reasons.

8 MR. WHITE: That's fine.

9 Thank you.

10 CHAIRPERSON MULÉ: Good. Okay, thank you. Thank
11 you, Mr. White.

12 Any questions, Board Chair Marin?

13 COMMITTEE MEMBER WASHINGTON: I have a question,
14 Madam Chair. In terms of the -- did I read right, John,
15 that this hearing constitutes the public hearing for the
16 regulations themselves?

17 MR. BELL: Yes, it does for the end of the 15-day
18 comment period.

19 COMMITTEE MEMBER WASHINGTON: Oh, for the end.
20 All right, for the end of the 15-day.

21 CHAIRPERSON MULÉ: Board Chair Marin.

22 COMMITTEE MEMBER MARIN: I did have a question.
23 There's only one person that's opposing or at least has
24 voiced some concern. Can you tell me what Don Holm -- is
25 he opposed to the regulation or is there something else

1 that we don't know?

2 MR. BELL: No. He brought the issue up during
3 the 45-day comment period, and the issue was about CEQA
4 requiring the operator, if the permit revision is for an
5 expansion, that these new regs would require that the
6 operator check into the air and water impacts of such an
7 expansion. The LEA isn't required to do that. They're
8 only to see that it's done essentially. So that will be
9 clarified in the Statement of Reasons, but we found it's
10 not inconsistent with state law in any respect. And we'll
11 clarify that.

12 CHAIRPERSON MULÉ: So is he continuing to oppose
13 it?

14 MR. BELL: He still feels that it is against
15 the -- or is an overlap of the authority between LEA and
16 water board and air board. He even states something like
17 that.

18 CHAIRPERSON MULÉ: So we received yet another
19 letter from him?

20 MR. BELL: Again reiterating from not for these
21 current changes but for the 45-day comment period issue,
22 he brought it up again. It didn't relate to any of the
23 changes we made over the 15 days, but it related back to
24 the original comment he made during the 45-day.

25 CHAIRPERSON MULÉ: Yeah, because I was unaware

1 that he had sent us another letter.

2 MR. BELL: Yes, he had, again reiterating that
3 past issue.

4 CHAIRPERSON MULÉ: And so is he okay with the
5 fact that we're going to address this in the Statement of
6 Reasons?

7 MR. BELL: I don't think so. According to his
8 letter, he doesn't accept that. But you must understand
9 that we were even directed to put that in by the Board
10 Committee as one of the 10 concepts. And it's been
11 extensively discussed and we see no violation of State law
12 or no overlap. It's done in the CEQA process anyway.

13 CHAIRPERSON MULÉ: Right.

14 COMMITTEE MEMBER MARIN: I just want to make
15 sure, because I'm sure he's well meaning, but he doesn't
16 have a law degree. And our attorneys feel very
17 comfortable that we're okay, right?

18 STAFF COUNSEL BLEDSOE: Yes.

19 CHAIRPERSON MULÉ: Thank you.

20 COMMITTEE MEMBER MARIN: I think he means well.
21 I just don't know that he knows state law the way that we
22 interpret it at least.

23 DEPUTY DIRECTOR LEVENSON: I would just add that
24 during the 45-day comment period when Mr. Holm bought this
25 up, we did clarify the language in the regulations as part

1 of the 45-day to make sure that it was clear that the LEA
2 wasn't going to be doing this. It was just that those
3 issues had to be addressed as part of the normal
4 environmental review.

5 COMMITTEE MEMBER MARIN: Exactly. Okay.

6 CHAIRPERSON MULÉ: Do I have a motion?

7 COMMITTEE MEMBER MARIN: Move approval of
8 2005-147.

9 COMMITTEE MEMBER WASHINGTON: Second.

10 CHAIRPERSON MULÉ: And that was moved by Board
11 Chair Marin and seconded by Board Member Washington.

12 If we could substitute the previous roll.

13 And that item can go on consent.

14 Okay. Our next item is Item E, Board Agenda Item
15 29.

16 DEPUTY DIRECTOR LEVENSON: This is the second of
17 our 3 regulatory items. Again, another one that has had
18 extensive discussion and a long history before the
19 Committee and the Board. And this is consideration of the
20 adoption of proposed regulations for RCRA Subtitle D
21 Program Research Development and Demonstration Permits.
22 And Mr. Scott Walker will be making that presentation.

23 REMEDIATION, CLOSURE & TECHNICAL SERVICES MANAGER
24 WALKER: Thank you. Scott Walker, Permitting and
25 Enforcement Division.

1 The proposed regulations would incorporate the
2 U.S. EPA Research Development and Demonstration Permit or
3 RD&D rule that became effective last April 2004.

4 The RD&D rule would allow approved Subtitle D
5 program states, such as California, the authority to issue
6 site-specific variances from certain Subtitle D criteria
7 under specified circumstances to protect public health and
8 safety and the environment.

9 The intent of this rule is to foster innovative
10 municipal solid waste landfill technologies, such as
11 bioreactors and alternative final cover system.

12 In July 2004, the Board approved start of the
13 RD&D rule-making process. On November 30th, the 45-day
14 comment period closed and on December 6th, a public
15 hearing was conducted at the Permitting and Enforcement
16 Committee meeting.

17 On April 11th, the Permitting and Enforcement
18 Committee considered all public comments received during
19 the 45-day comment period, in addition to those received
20 during the public hearing.

21 The Committee directed staff to proceed with
22 changes to the proposed regulations for an additional
23 15-day public comment period. The changes would
24 incorporate additional more stringent project protocol
25 requirements. On May 3rd the 15-day comment period

1 concluded. No comments were received.

2 The State Water Resources Control Board, which
3 along with the Waste Board, jointly implements
4 California's Subtitle D program, is proceeding with its
5 process to incorporate the RD&D rule as an amendment to
6 its Policy 9362.

7 The State Water Resources Control Board will have
8 a public workshop on July 6th and plans to adopt the
9 amendment as early as July 21st. If adopted, the Board
10 and State Water Resources Control Board staff plan to
11 submit both packages to the Office of Administrative Law
12 for approval at the same time as early as late August.

13 In conclusion, staff recommends the Board adopt
14 Resolution number 2005-148, to determine the proposed
15 regulations exempt from CEQA and approve the proposed
16 regulations for RCRA Subtitle D Program Research
17 Development and Demonstration permits.

18 Thank you. I'll be happy to answer any
19 questions.

20 CHAIRPERSON MULÉ: Thank you, Scott. And first,
21 we do have one speaker, Chuck White from Waste Management.

22 MR. WHITE: Chuck White, Waste Management. Thank
23 you, Madam Chair and Members of the Committee. No real
24 comments, other than to let you know we support the
25 regulations. We've worked really close with the staff who

1 have just been great. We've worked close with
2 Californians Against Waste to address their concerns. The
3 added language does provide some additional limits and
4 controls with respect to projects that are proceeding
5 under RD&D, but we think we can live with them. We think
6 they will still provide the justification and
7 documentation that the Board and the people of the state
8 and Californians Against Waste and other environmental
9 organizations are seeking, but still allow these projects
10 to move forward. So we urge you to go ahead and move
11 these regulations.

12 Thank you.

13 CHAIRPERSON MULÉ: Thank you. Are there any
14 questions, Madam Chair?

15 Board Member Washington?

16 I just want to thank Joe Mello from the State
17 Water Resources Control Board working with our staff on
18 those regs. You know, once again here our regs that
19 obviously cross media into water. And it's just really
20 good to see that we're working very closely with them and
21 moving this whole regulation along jointly. It just makes
22 a lot of sense and I hope that we can do this with many
23 more of our regulations.

24 So thank you.

25 With that, I'd like to -- do I have a motion to

1 approve?

2 COMMITTEE MEMBER WASHINGTON: I'd like to move
3 adoption of Resolution 2005-148.

4 COMMITTEE MEMBER MARIN: Second.

5 CHAIRPERSON MULÉ: Moved by Board Member
6 Washington and seconded by Board Chair Marin.

7 And with that, we can substitute the previous
8 roll call and this can go on our consent agenda as well.

9 Our next item is Item 31.

10 DEPUTY DIRECTOR LEVENSON: Thirty.

11 CHAIRPERSON MULÉ: Sorry, 30. And it's Committee
12 Agenda F.

13 DEPUTY DIRECTOR LEVENSON: And while we're
14 introducing this, if we can get the PowerPoint up, please.

15 This is an oral presentation only by Mark de Bie.
16 And it's a status report on the proposed regulations -- on
17 the development of the permit implementation regulations,
18 which as Mark will explain are linked with AB 1497. And
19 this is to provide you with a status report on what we've
20 done over the last year and where we plan to go.

21 CHAIRPERSON MULÉ: Mark.

22 (Thereupon an overhead presentation was
23 Presented as follows.)

24 PERMITTING & INSPECTION MANAGER de BIE: Thank
25 you Howard. Mark de Bie with the Permitting & Inspection

1 Branch. I'm sort of the manager of this project.

2 And as Howard indicated this is just an oral
3 presentation. No requests for any decision. But
4 certainly if, you know, if discussion results, that's
5 fine.

6 As Howard indicated this was linked -- this
7 particular reg package is linked to 1497, but it also has
8 elements of some previous board direction relative to CDI
9 and those regs and making -- and looking for applicability
10 to other sites.

11 Basically, it's 1 of 3 reg packages that we have
12 in the pipeline. This one is still in the informal
13 process. There are 2 more that are lined up behind it,
14 all sort of dealing with permits dealing with CDI and that
15 sort of thing.

16 The Committee approved a plan to address all of
17 those regulatory concepts back in November 2004, and this
18 is the first one going through.

19 --o0o--

20 PERMITTING & INSPECTION MANAGER de BIE: This
21 package has 6 key issues or concepts that we're dealing
22 with. The first one deals with significant change and
23 modified permit process comes out of 1497 where there was
24 a request to define significant change.

25 The second is public noticing and hearings. Also

1 directly linked to 1497, because it requires a new notice
2 and hearing requirement of the LEA relative to revised
3 permits.

4 Concept 3 is a concept that was added in through
5 board staff, LEA, operator discussions in the past
6 relative to trying to get better clarity on the
7 relationship between land-use permits and the solid waste
8 facility permit.

9 Number 4 is tracking community outreach, which
10 has some link back to 1497 because there's an overall
11 theme relative to environmental justice. And community
12 outreach is a very large part of that aspect.

13 Five-year permit review is basically what we're
14 viewing as a clean-up to the regs relative to permits. We
15 thought we'd do that while we were opening up the permit
16 process.

17 And then item 6, surprise random inspections, was
18 not originally on this list, but previous Board Member
19 Paparian asked that it be brought up into this reg package
20 as a higher priority. So those are the 6 items that we're
21 addressing in this package.

22 --o0o--

23 PERMITTING & INSPECTION MANAGER de BIE: To let
24 you know what we've been doing since November when the
25 plan was approved. We've formed a working team to go

1 through the issues, both dealing with P&I staff and other
2 staff in the division, as well as trying to get some
3 resources out of the LEA's in this team. So we have LEAs
4 working directly with board staff and consulting relative
5 to this package too.

6 We developed or the team developed an initial
7 approach to those 6 issues and shared them with the
8 Enforcement Advisory Council as well as through some
9 public workshops in April, and got some input on those.

10 I just wanted to let everyone know that the
11 results of those public workshops are posted on the web
12 site, and we were actually able to digitally record them,
13 so people that miss them can hear firsthand what occurred
14 during those workshops.

15 At the end of the workshops we continue to be
16 open to receive any written comments from people that
17 could not attend or did attend and wanted to clarify their
18 remarks a little bit more after attending the workshop.
19 And so we asked people to get those comments into us by
20 the end of April or early May.

21 And at the LEA conference, we had a small session
22 trying to seek additional input from LEAs about mostly
23 implementation issues on some of these concepts about if
24 it did go with certain direction what they thought would
25 be some of the issues that needed to be addressed.

1 --o0o--

2 PERMITTING & INSPECTION MANAGER de BIE: Because
3 1497 does have sort of a theme of Environmental Justice
4 and inclusiveness, we've made an extra effort to get
5 notices out relative to all of the opportunities to
6 interact on this package. So we've distributed notices to
7 LEAs, industry and public interest groups.

8 All of the scoping sessions, all the workshops
9 have been noticed with direct mail and on the web. And
10 the public workshops, we actually had a request that we
11 expand the Sacramento one with a video conferencing link
12 to Fresno so that additional people could attend. And
13 thanks to Bob Davila that came through and worked out
14 quite well.

15 --o0o--

16 PERMITTING & INSPECTION MANAGER de BIE: And then
17 we have a web site presence that we're using to record the
18 progress of this package. And so as we get new
19 information and analysis, hire level of detail as well as
20 results from workshops, the digital recordings those sorts
21 of things are all showing up on this web site.

22 --o0o--

23 PERMITTING & INSPECTION MANAGER de BIE: Just to
24 let you know what we've been hearing so far about the
25 scope of the issues as presented. We did get a lot of

1 people attending the workshops. I think there were
2 probably close to 100 that actually did attend in one form
3 or another. We got 15 written comment letters.

4 A lot of the comments were dealing with Issue 1,
5 the significant change, and that was expected. No
6 surprise there.

7 There was some interest among many parties about
8 how we were -- the group was planning to approach that
9 significant change issue through this, what we're
10 referring to, as a decision tree, with the modified permit
11 as an option.

12 And it's our sense that most of the LEAs are
13 pretty aligned with where we're at on these issues. So we
14 just wanted to share in a general way our sense of where
15 we're at in terms of the feedback.

16 --o0o--

17 PERMITTING & INSPECTION MANAGER de BIE: So I
18 wanted to take an opportunity just a little higher level
19 detail on each of these 6 issues to let the Committee know
20 the current thinking of the team relative to each of
21 these.

22 On the first one, significant change modified
23 permit process. Again this came out of 1497 where the
24 statute indicated that the Board needed through
25 regulations to define the phrase significant change in

1 design and operation not authorized by the permit.

2 And so we're attempting to define that whole
3 phrase, not just the term significant change. I believe
4 the Committee is aware that significant change or that
5 whole phrase is basically the trigger on determining when
6 a permit needs to be revised.

7 Right now, in regulation there are 2 ways to
8 address requested changes from an applicant or an operator
9 of a facility. One is to approve the change through
10 amendment to their application documents, the Report of
11 Facility Information, if 3 findings can be made. And if
12 those 3 findings can't be made, then through a permit
13 revision. So there's only basically 2 ways of addressing
14 those changes.

15 So on a high level you could sort of indicate
16 that for less than significant changes, it's an RFI
17 amendment process and for significant changes it's a
18 revised permit process. That's not really the best way to
19 view it, because if you look at the 3 criteria to
20 determine whether a significant change or whether a
21 revised permit is required, one is a finding that whatever
22 the change is that someone somewhere has done some CEQA
23 review relative to it. And that it's consistent with
24 that.

25 The second is that the change is consistent with

1 State minimum standards. We don't want to have the LEAs
2 approving things that are inconsistent with the
3 regulations or statutes.

4 And then the third one is whether or not the
5 permit, as written, allows it to occur or not. I mean if
6 there's something in the permit that would disallow
7 whatever is being requested, then that would trigger a
8 revision. For example, some permits indicate that waste
9 will be covered once a day with soil. And if the operator
10 came to the LEA and said, you know, I want to start using
11 green waste to cover the waste. Well, the permit
12 basically says you have to use soil and you can't use
13 anything else.

14 So the current process is if you wanted to use
15 green waste, you would need to change that statement in
16 the permit that said just soil, and that would currently
17 require a revision to make that occur.

18 So what we see day-to-day is a lot of the
19 revisions that come forward are because there's something
20 in the permit that doesn't allow it, and the permit needs
21 to change. We don't see revisions coming up because of
22 CEQA issues or State minimum standards issues. It's
23 because there's something in the permit that disallows
24 whatever is being requested.

25 So staff thought that there should be a way to

1 continue to allow RFI amendments, Report of Facility
2 Information amendments, but allow the permit to change for
3 things that aren't as significant as others. So minor
4 kinds of things. And so we are planning to develop regs
5 that expand the decision tree to indicate that there would
6 be a way to change the permit for minor kinds of changes
7 or less than significant changes. And that is what we're
8 referring to as the modified permit process.

9 The additional criteria that we're looking at
10 adding in is to first focus on just changes dealing with
11 design and operation. So if a change is not dealing with
12 design or operation, that's not part of the trigger for a
13 revised permit, we would allow that to go towards a
14 modified permit process.

15 If the change is basically administrative, it's a
16 paperwork kind of change and no real physical change would
17 occur at the site as a result of this request from the
18 operator, then we're looking at allowing that to go to a
19 modified permit process.

20 And really it boils down to the last criteria is
21 when the LEA gets this request, if, in their review, they
22 determine that they need to condition that request, that
23 change at the facility to avoid some issue relative to
24 public health and safety and the environment, then that
25 would trigger a revision. So only if the change is, if

1 you will, significant enough to require a condition, then
2 it would be significant.

3 So I gave you a lot of background on that because
4 as I indicated that we had a lot of input on that. So I
5 wanted to make sure that you were up on where we were.

6 Relative to public noticing and hearing, we got
7 fairly good support on our approach on that. And I think
8 our next step would be to add details relative to that.
9 We're looking at expanding the notice from 1497 to not
10 just revisions but new permits, and hearings for both of
11 those 2.

12 We are not looking at requiring a hearing for a
13 modified permit. Again, those would be for those less
14 than significant kinds of changes.

15 The relationship to the solid waste facility
16 permit and the local land use, we didn't get a lot of
17 agreement on our approach on that. So we are doing a
18 major rethink on that at this moment. We got really good
19 input from industry as well as the LEAs on our initial
20 approach, and so we're rethinking that one.

21 As well with tracking community outreach efforts,
22 we had initially thought we would ask the operators to
23 record that through a record keeping process. We're now
24 looking at maybe indicating that they should provide
25 information in the application, the Solid Waste Facility

1 Permit application package relative to the specific change
2 that's coming forward through that application.

3 The 5-year permit review noticing is just
4 shifting who actually notices the operator of their
5 requirement to apply for a 5-year review that would bring
6 it back down to the LEA, as it is with full permit, this
7 is for the registration permit.

8 And then surprise random inspections is to
9 clarify in regs that LEAs are required to inspect
10 facilities in such a way that it's random and unannounced.

11 --o0o--

12 PERMITTING & INSPECTION MANAGER de BIE: So our
13 next approach is to fine tune Issue 1 and 2, the
14 significant change and the public noticing. And we're
15 pretty much ready to move to the next phase of actually
16 drafting language on the last 3, 4, 5 and 6, the tracking
17 of community outreach, 5-year review and surprise random
18 inspections.

19 We're going to analyze 3 some more. No
20 prediction on how long that would take, but hopefully we
21 can change gears on that and move forward on that in the
22 next couple weeks.

23 And then we'll be planning to come back to the
24 Committee with a lot more detail and hopefully specific
25 regulatory language, probably with a request for 45-day

1 comment period, sometime around the end of the summer.

2 --o0o--

3 PERMITTING & INSPECTION MANAGER de BIE: And just
4 so people are aware that there are many ways to continue
5 to be involved with this process. They can go to the web
6 site. I showed a snapshot of that. We have a dedicated
7 E-mail address for people to send comments to or ask
8 questions and then they can also continue to subscribe to
9 the list serve and get written notices that way.

10 So that's what I have to share with you. If you
11 have any questions, or if there are speakers.

12 CHAIRPERSON MULÉ: Mark, thank you very much. We
13 do have one speaker. So if I may take this speaker first,
14 and then we'll have questions.

15 Mr. Evan Edgar.

16 MR. EDGAR: Madam Chair and Board Members. My
17 name is Evan Edgar. I'm with the California Refuse
18 Removal Council. We support all of the next steps from
19 staff. This is a very timely process to go through
20 significant change and all aspects of it. And we look
21 forward to the regulatory package.

22 With regards to Item 4, 5 and 6, we like all
23 aspects of it as well as number 1. We believe that a
24 permit modification aspect to delegated revision to the EO
25 is a timely method and we would support that.

1 In regards to tracking community outreach, we
2 track it in our operating record. In fact, we had good
3 case study with Avenal. We put that in our operating
4 record of our environmental justice community outreach
5 meeting. We're okay with that. Plus, we're okay with
6 putting that in an application package when the permit
7 comes forth. We believe we need to document all aspects
8 of community outreach that's a benefit to the community
9 and the operator. So we'll continue to do that for the
10 facilities of CRRC to do that tracking.

11 With regards to land use, correct there's a lot
12 of work to do there still with local land use. And the
13 only comment about number 2 about number noticing and
14 hearing requirements, if you have a new permit that's kind
15 of recent from local and use within 3 to 6 months, do you
16 really need to have another hearing or not. So we'll
17 follow-up with that as well.

18 But as whole, this is a great package and we look
19 forward to seeing the regulations out this summer.

20 Thank you.

21 CHAIRPERSON MULÉ: Great. Thank you, Mr. Edgar.

22 Do we have any questions for staff?

23 Board Chair Marin.

24 COMMITTEE MEMBER MARIN: I have 2 thoughts. And
25 obviously my background on local government precedes this.

1 On the issues of local use, I would try to steer clear
2 from our Board trying to impose any and all decisions that
3 the local levels must make. You know, I feel very
4 strongly about that. Unless, we're prepared to give them
5 the money and extra resources that they may need to comply
6 with those laws and whatever it is.

7 You get my drift, right?

8 And so I don't know what --

9 DEPUTY DIRECTOR LEVENSON: Absolutely. And this
10 particular proposal, as we're thinking about it, Mark can
11 go into more details, we would not enter into the local
12 planning process. It's more how is that -- the results
13 from that process used in the solid waste permit process
14 itself.

15 COMMITTEE MEMBER MARIN: Okay. Good.

16 PERMITTING & INSPECTION MANAGER de BIE: Yeah.
17 It's just looking after the fact, after the approval has
18 been made and there's sort of a land-use approval in place
19 with restrictions, and now the LEA is getting a solid
20 waste facility permit, how would they utilize that
21 information provided through that local land use in their
22 solid waste facility permit process? How tight does it
23 need to be or does it need to be looked at at all?

24 There are people at both ends of the spectrum in
25 terms of how to approach that. And what we're trying to

1 do is clarify the best approach for the LEAs and the
2 applicants on that.

3 COMMITTEE MEMBER MARIN: I can understand the
4 concerns, because on the one hand we would have to, if we
5 do it for one, then we have to do it for all of them. And
6 some local jurisdictions may be more lenient or more
7 restrictive on their approval process.

8 I would still, however, be very careful in the
9 sense that we do not want to impose upon, you know, any
10 and all jurisdictions, because one particular jurisdiction
11 may be either more conservative or more liberal in their
12 leanings. What I mean is by granting these permits.

13 So I would really be very, very cautious about
14 how we're going to, if in fact, we choose to have any
15 direction -- giving a direction to the LEAs. I think we
16 need to be very careful. And I would caution our legal
17 staff to really be very careful and cognizant of that.

18 In addition to that, the surprises inspections,
19 explain to me, don't we already do that?

20 PERMITTING & INSPECTION MANAGER de BIE: Yes, we
21 do. We do and the LEAs do. The request of the Board was
22 to be clear that the Board had an expectation that
23 everyone do that. And right now in the regulations --

24 COMMITTEE MEMBER MARIN: Isn't that what we do?

25 PERMITTING & INSPECTION MANAGER de BIE: They're

1 not required in the regs. Yes, it's a common practice.

2 In general, everyone, you know, schedules their
3 inspections in such a way that the operator would not be
4 able to anticipate it. Again --

5 COMMITTEE MEMBER MARIN: People don't know that
6 I've done surprise inspections. I don't understand.

7 PERMITTING & INSPECTION MANAGER de BIE: Right
8 now in reg it's permissive. The LEA may do those kinds of
9 inspections.

10 COMMITTEE MEMBER MARIN: Don't they already do it
11 anyway?

12 PERMITTING & INSPECTION MANAGER de BIE: Right,
13 but there's nothing that requires them to do. And the
14 Board asked staff to develop regs that would actually
15 direct the LEAs. We're approaching it in such a way that
16 they would -- it would be clear that that's an expectation
17 in the regs, but also recognize that there may be sites
18 out there that they cannot actually go to unannounced.
19 For example, landfills at military bases, you just don't
20 show up at the gate and expect to get in and do an
21 inspection.

22 COMMITTEE MEMBER MARIN: We know what happens.

23 PERMITTING & INSPECTION MANAGER de BIE: You have
24 to give a little bit of notice relative to that. So the
25 regs would be drafted in such a way that would allow some

1 allowances for those kinds of situations. But it's just
2 moving away from a permissive to --

3 COMMITTEE MEMBER MARIN: But the fact --

4 PERMITTING & INSPECTION MANAGER de BIE: --
5 requiring it.

6 COMMITTEE MEMBER MARIN: Well, wait a minute.
7 Let me walk back here.

8 There are some facilities which we -- even if we
9 say they have to go on unannounced, that spirit of the
10 law -- because it would be federal law preempts state
11 law -- it would be meaningless, so why would we put it
12 in. --

13 PERMITTING & INSPECTION MANAGER de BIE: We're
14 going to draft it in such a way that there are allowances
15 for that. So they would be able to -- some of the
16 language we're looking at is wherever it is -- wherever or
17 whenever possible the LEA will do this.

18 COMMITTEE MEMBER MARIN: But isn't that what is
19 happening right now?

20 PERMITTING & INSPECTION MANAGER de BIE: Yes, but
21 the Board directed staff to do this. If the Board would
22 like to change the direction --

23 COMMITTEE MEMBER MARIN: Well, the Board directed
24 that maybe we need to redirect that. I understand -- let
25 me make this clear. I understand the intent of why. But

1 let's be practical here. I mean, this is -- you know,
2 what are we attempting to do here?

3 DEPUTY DIRECTOR LEVENSON: Madam Chair, this
4 particular requirement is in the current CDI regulations
5 for new facilities. And the Board asked us to look at the
6 applicability in general to other solid waste facilities.
7 Then as part of the regulatory package that was approved
8 in November, it asked us to include this.

9 Certainly, when this comes back to you with
10 particular language, you could direct us to, you know,
11 take that particular provision out or change it in some
12 way and we'd be happy to look at it at that time in that
13 way.

14 COMMITTEE MEMBER MARIN: Okay. We'll deal with
15 that at that time. It's just not -- okay.

16 CHAIRPERSON MULÉ: Board Member Washington.

17 COMMITTEE MEMBER WASHINGTON: Thank you, Madam
18 Chair. Thank you so much. In the wisdom of the previous
19 Board, I remember the issues of random inspection coming
20 up and one of the problems that we had Chair Marin is that
21 although it says we can do it, it hadn't been done enough.
22 And going out and visiting facilities and things like
23 that, the previous Board that I served with agreed that
24 the surprise inspections working with the LEAs that many
25 of the Board members found had relationships with the

1 Board and things like that, that the job wasn't getting
2 done.

3 And so that's how this whole idea of surprise
4 inspections or random inspections came up. Because some
5 of us Board members also went out and did surprise
6 inspections likewise. And certainly we can engage again
7 in the discussions of random inspections and things of
8 that nature. And I'll certainly ask that we do that in
9 those discussions and have further discussions on these
10 random inspections.

11 I just want to attach my comments to that of Evan
12 Edgar's in terms of the work that's been done here. I
13 think this is some good work. And, again, I've been
14 raising the issue of public notice and public hearings and
15 community outreach since I've been on this Board. And to
16 see the effort that has been made now, and Mark de Bie and
17 I have had several conversations about this when I first
18 came to the Board. I am very happy to see that under
19 these permits and within this reg package that we are
20 moving in that correction.

21 So I just wanted to attached my comments to that
22 of Evan Edgar's when he made those comments.

23 CHAIRPERSON MULÉ: Thank you. Are there any
24 other questions or comments?

25 COMMITTEE MEMBER MARIN: Well, I'd like to make

1 Mr. Washington's desire to revisit this, because, you
2 know, if in fact -- well, maybe somebody's not being very
3 honest here in the sense that either we have random
4 inspections or we don't.

5 Do we have them?

6 COMMITTEE MEMBER WASHINGTON: We can certainly
7 debate it now. I have no problem with that, if we have
8 the time. I honestly believe, Madam Chair, that we do
9 have them where we can do them, but they're not being
10 done.

11 COMMITTEE MEMBER MARIN: They were not being done
12 at that time.

13 COMMITTEE MEMBER WASHINGTON: Exactly.

14 COMMITTEE MEMBER MARIN: Are they being done now?

15 DEPUTY DIRECTOR LEVENSON: And we have had more
16 discussions with LEAs and gotten some feedback. I think
17 our impression in general is that they are conducting
18 random unannounced inspections. As Mark said it cannot
19 happen all the time at all facilities. We can certainly
20 do more on that.

21 COMMITTEE MEMBER WASHINGTON: And again how we
22 measure that I have no clue in terms of how do we measure
23 it.

24 COMMITTEE MEMBER MARIN: Well, we should have a
25 clue.

1 COMMITTEE MEMBER WASHINGTON: That's my point.

2 COMMITTEE MEMBER MARIN: We should know how many
3 inspections. The LEAs know how many inspections they have
4 done. And how many were surprise, how many were random,
5 how many were noticed, how many were given three months
6 notice, how many were given no notice. You know, that's
7 information that, quite frankly, even if the LEAs wouldn't
8 have them, I can tell you who has them, the operators,
9 because they know that they were being inspected.

10 So, you know, I just -- and I can appreciate
11 where maybe people were not doing their job, and maybe
12 people did not trust that people were doing their job, but
13 I think we need to move beyond that. If that's not
14 happening, then let me know, and we will make sure, and we
15 will do all kinds of things.

16 But I believe that this is just over the edge.
17 And if we don't need to do that, we shouldn't have to do
18 it. It just -- just because we have the ability to say
19 something that we should say it, it's not a good reason
20 for us to justify it.

21 DEPUTY DIRECTOR LEVENSON: Well, we can have
22 further discussions obviously with the stakeholders and
23 then when we come back to you, you know, provide with you
24 2 options keep it in, keep it out to get more direction.

25 So far, the LEAs, in general, support having this

1 kind of requirement, because it does provide more
2 stringency.

3 COMMITTEE MEMBER WASHINGTON: Yeah. I was going
4 to say at one of the conferences I spoke at about a year
5 and a half ago with the LEAs, they did mention that they
6 thought it was a great idea with the random inspections.

7 COMMITTEE MEMBER WASHINGTON: So are you
8 suggesting that they were not doing that?

9 (Laughter.)

10 COMMITTEE MEMBER MARIN: Were they suggesting
11 that they were not doing it? Let me ask you this, do they
12 think that they need this Board to let them know that they
13 should have random inspections? I will be very pressed to
14 have somebody make that case, because that should be
15 something that they should be doing to begin with.

16 But having a board suggest that they should be
17 doing something that she should be doing, isn't that --
18 okay. I'll be discussing this with somebody else.

19 CHAIRPERSON MULÉ: Michael, go ahead.

20 STAFF COUNSEL BLEDSOE: Madam Chair. Michael
21 Bledsoe from the legal office. Just one point to keep in
22 mind, since the existing regulatory language is
23 permissive, and it's clearly a desire on the Board's part
24 that these inspections be surprise and random, if an LEA
25 does not conduct random surprise inspections, the LEA --

1 you know, we have no enforcement power, no ability to make
2 the LEA do that.

3 So even if we're talking only about a small
4 percentage of the LEAs, it would be to the Board's
5 advantage to have mandatory language in the regulations so
6 that they can, in fact, enforce their policy.

7 CHAIRPERSON MULÉ: And I believe that was the
8 discussion awhile back with some of the previous Board
9 members on that. And that's something that we can further
10 discuss once the regulations are further developed.

11 You know, it goes along the same lines of
12 tracking community outreach efforts. I know that we did
13 receive a letter from SWANA regarding that particular
14 issue, saying that, you know, they do that, but to require
15 that in a regulation it's just one more thing that they
16 can get dinged on so to speak, if they do not track
17 community outreach efforts.

18 So that was one of those things that they're
19 saying well we do this anyway, but to have it required in
20 regulation was something that they were not comfortable
21 with, as I recall in the letter.

22 I do want to comment though, I've been to a few
23 of the public hearings. And once again Mark, Bobby and
24 the rest of the staff you're doing a great job with,
25 again, really going out there and seeking input and

1 listening. I see that there are several people that were
2 here -- that were at the Diamond Bar hearing on April 8th
3 I believe it was or April 6th.

4 So, again, I just want to thank everybody for
5 their input. And I think that as a result, I hope that we
6 will have better regulations that are thoroughly thought
7 out and really well thought out and discussed before we
8 actually move forward with the language. Because there
9 are -- there's a lot of questions, but again a lot of good
10 input that I think has occurred as a result of our public
11 input process.

12 Madam Chair.

13 COMMITTEE MEMBER MARIN: Yeah. Well, I just want
14 to know. I want to understand. The LEAs suggested that
15 they wanted to be required -- Mr. Washington, that they
16 wanted to be required to do random inspections, I want
17 to --

18 COMMITTEE MEMBER WASHINGTON: No, they didn't
19 suggest it. They just made the comments at they LEA
20 conference that they had no problem with it.

21 COMMITTEE MEMBER MARIN: Okay.

22 CHAIRPERSON MULÉ: Okay. If there are no further
23 comments, thank you very much, Mark.

24 DEPUTY DIRECTOR LEVENSON: And I just want to
25 thank Mark and Bobby, and Becky again. This is a

1 difficult package with a lot of important concepts, and
2 that's why we're having this long informal process
3 together, back and forth on some of these issues to get
4 further input.

5 CHAIRPERSON MULÉ: Okay. Howard, agenda Item 31
6 and Committee Item G.

7 DEPUTY DIRECTOR LEVENSON: Thank you. This will
8 be presented by Carla Repucci. This item is consideration
9 of the grant awards for the Farm and Ranch Solid Waste
10 Clean-up and Abatement Grant Program. This is for fiscal
11 year 2004/05.

12 MS. REPUCCI: Good morning, Madam Chair and
13 Committee Members. My name is Carla Repucci and I will
14 present Item G for the consideration of 7 applications for
15 Farm and Ranch Solid Waste Clean-up and Abatement Grants.

16 The amount requested in these applications being
17 brought before you today is \$387,588.45 cents, and
18 represent the final award of this fiscal year.

19 The Farm and Ranch Grant Program provides funds
20 to local governments, resource conservation districts and
21 Native American tribes to clean up illegal disposal sites
22 on farm and ranch property. \$389,414 remain in the fund
23 for this fiscal year. Nine applications were received
24 this quarter requesting \$607,391. The applications were
25 reviewed for eligibility and 1 was determined to be

1 ineligible. The remaining 8 all received passing scores.

2 The amount requested in the passing applications
3 was greater than the amount of money remaining in the
4 fund. Therefore, in rank order 6 applications are being
5 recommended for full funding and 1 at partial funding.
6 The 8th is not being recommended this quarter as it fell
7 below the funding line.

8 If these applications are approved as
9 recommended, the Farm and Ranch Grant Program will have
10 been fully subscribed for the second year in a row. The
11 44 sites being requested for clean-up are in the counties
12 of Monterey, Mendocino, Humboldt, Trinity, San Diego,
13 Sonoma and Imperial.

14 Removal of the waste will restore the properties
15 back to their natural state and remove the threat to
16 public health and safety and the environment.

17 All 7 applicants have indicated efforts to
18 prevent waste from being redeposited. The efforts include
19 the posting of signs, gates, K-rail barriers, fencing,
20 dirt berms and increased surveillance.

21 Agenda Item G is for the consideration of the 7
22 grant applications for farm and ranch solid waste clean-up
23 and abatement grants. Each application meets the
24 eligibility requirements set forth by the statute.

25 Therefore, staff recommends the Board adopt

1 Resolution 2005-149 authorizing the award of up to
2 \$387,588.45 for the grant applications from the Resource
3 Conservation districts of Monterey county, Trinity county,
4 and upper San Luis Rey, the Mendocino Solid Waste
5 Management Authority, and the counties of Humboldt, Sonoma
6 and Imperial and directing staff to develop and execute
7 grant agreements. I would be happy to answer any
8 questions.

9 CHAIRPERSON MULÉ: Okay. We do have one speaker,
10 Mr. Terry Leveille, if you could come forward please.

11 COMMITTEE MEMBER MARIN: Good because I was just
12 going to mention that there's a few of these sites that
13 have tires.

14 MR. LEVEILLE: No, I wasn't going to mention
15 anything.

16 (Laughter.)

17 MR. LEVEILLE: Madam Chair and Committee Members,
18 I'm Terry Leveille representing TL and Associates
19 representing the California Tire Dealers Association north
20 and south.

21 And I thought I'd pay a visit today because I
22 wasn't doing anything else. This isn't -- you know, I
23 question the program itself. I've always questioned the
24 program. I mean, just sort of this idea that you clean up
25 a farm or a ranch that has some goods, you know, some

1 garbage on it and then they don't -- they have to sign a
2 certification that they didn't know that it was being
3 delivered on there.

4 You know, it always sort of rankled me, but I
5 understand how it came about. And I'm not going to argue
6 the merits of the program.

7 Most of this program goes into cleaning up white
8 goods, household garbage, occasional tires, occasional
9 cars, and back in the fall when you first on, I argued
10 against the funding source. At that time, in fact, up
11 through this fiscal year, it's been one-third tire fund,
12 one-third IWMA, one-third Used Oil Fund.

13 And staff took my message to heart and decided to
14 knockout all the money that the oil fund is giving to it,
15 and then increase the tire fund money --

16 (Laughter.)

17 MR. LEVEILLE: -- to \$400,000 starting next
18 fiscal year and subsequent years after that.

19 My main concern, and I'll raise this issue from
20 time to time is that this program -- these particular
21 grants come to about 390,000. I counted up the number of
22 tires you're going to be cleaning up, and it's 547 tires.
23 It seems like a lot of money per tire. I know you've got
24 other stuff.

25 And, as I, say it's not a bad program if you can

1 support the concept behind it. But I still think that the
2 tire fund could be used in a better manner. You've
3 already decided or staff and the Board have already
4 decided to take the used oil money out of this program.
5 The Legislature gives the Board the opportunity to spend
6 up to a million dollars anyway they want from any fund
7 they want. And it just seems reasonable that the IWMA
8 should bear the burden. And, you know, maybe throw in
9 100,000 from the tire fund. You know, I mean we can live
10 with that. But over and over again we see this issue
11 coming up and I'll raise it from time to time.

12 So I just wanted to be here and see you guys.

13 And I'll see you Wednesday too.

14 (Laughter.)

15 MR. LEVEILLE: Thank you.

16 CHAIRPERSON MULÉ: Thank you Terry. Howard, do
17 you want to address that?

18 DEPUTY DIRECTOR LEVENSON: I just wanted to point
19 out to the Board, we certainly understand Mr. Leveille's
20 concerns about this. This issue was thoroughly vetted, I
21 believe, in the discussions on the Five Year Tire Plan,
22 where we gathered up information on the numbers of tires
23 that have been cleaned up through the course of the
24 program, and demonstrated that it is indeed a significant
25 amount. I don't have those numbers with me today, but

1 we'd be happy to provide -- we did provide those to the
2 Board at that time, and be happy to revisit that if you
3 need it.

4 COMMITTEE MEMBER MARIN: I just have to give, Mr.
5 Terry Leveille a hard time, because I appreciate the
6 fact -- you have a message to give and you deliver it and
7 you know that this Board is going to disagree with you and
8 you still do your job, and I appreciate that.

9 It's for the greater good. And I know we're
10 going to disagree on this Terry, but I do appreciate that
11 fact. As a matter of fact, it does make me focus more
12 whenever I see a farm and ranch grant, you know. I want
13 to see that there's more tires that, you know -- but I
14 don't know how many of those are going to be out there and
15 when we clean up all of the tires, which my hope is that
16 we do soon, that there won't be.

17 And, you know, the best success of a program is
18 when it's no longer there, when it's no longer needed. I
19 would -- it would be great to think that maybe there would
20 be one day when we don't need this grant anymore at all,
21 not just from the tire money, but from all the different
22 sources. But I have to give you grief every now and then
23 Terry. Thank you for showing up.

24 CHAIRPERSON MULÉ: Thank you, Madam Chair. And I
25 did notice that every single one of those applications --

1 Terry, I'm going to jump in too. There are tires that
2 are -- and we all know inevitably that many of these
3 illegal dump sites, because really that's what they are,
4 have tires in them. And, you know, that's just part of
5 the makeup of these illegal piles. And so we really do
6 need to clean them up.

7 And, you know, I agree with the other Board
8 members that we have had extensive discussions at our Five
9 Year Tire Plan. And I also feel that this money is being
10 put to good use at this point in time.

11 So that's my position on it.

12 Thank you.

13 Mr. Washington.

14 COMMITTEE MEMBER WASHINGTON: You know, I would
15 probably go out on a limb here to say that I do think
16 Terry raised some great points, in the sense that this
17 fund is for tires. And I don't want us to have him leave
18 here thinking that we're not aware and cognizant of the
19 fact that we should be using this money for tires.

20 And if the opportunity does present itself where,
21 as the Madam Chair said, that we clean those tires up that
22 are out there on these -- that we're trying to get cleaned
23 up now. Certainly, I hope that we will revisit the
24 opportunity to do away with this program likewise.

25 So I do respect your comments and certainly

1 understand exactly where you're coming from as it relates
2 to the funds.

3 CHAIRPERSON MULÉ: Thank you. With that, do I
4 hear a motion for approval?

5 COMMITTEE MEMBER WASHINGTON: Yeah, Madam Chair,
6 I'd like to move adoption of Resolution 2005-149.

7 COMMITTEE MEMBER MARIN: Second.

8 CHAIRPERSON MULÉ: It's moved by Board Member
9 Washington, seconded by Board Chair Marin. And if you
10 could substitute the previous roll, and we can put this on
11 fiscal consent.

12 Our next item is Item H, Board Agenda Item 32.

13 DEPUTY DIRECTOR LEVENSON: The next 3 items will
14 all concern the solid waste disposal clean-up program and
15 the trust fund. This is consideration of -- Item 32 is
16 consideration of new projects for the solid waste disposal
17 and co-disposal site clean-up program for fiscal year
18 2004/2005.

19 And Wes Mindermann will make this presentation.

20 SOLID WASTE CLEANUP PROGRAMS SUPERVISOR

21 MINDERMAN: Good morning, Madam Chair and Members of the
22 Committee. The item before you this morning consists of 3
23 new projects, 2 of which are matching grants and one of
24 which is a board managed project for your consideration
25 this morning.

1 The first matching grant is for \$750,000 to Los
2 Angeles county for trash interceptor installations to
3 address the clean up of 7 illegal disposal sites on the
4 Los Angeles River.

5 This project is similar in scope to the project
6 that the Los Angeles County Flood Control District
7 proposed and was awarded for last in June of 2004 under
8 Agenda Item 9, but benefits different outfall sites.

9 The district has made substantial progress in the
10 aforementioned projects with design work being completed
11 and construction scheduled to be completed by November of
12 2005.

13 The second matching grant is to Santa Barbara
14 County for approximately \$62,000 for the installation of a
15 landfill gas collection system on the Santa Ynez Airport
16 Landfill to mitigate off-site landfill gas migration.

17 Both grants have been reviewed, scored and staff
18 are recommending approval by the Board.

19 The third project is the Board managed clean-up
20 of the Poe Colonia illegal disposal site, which is located
21 in an unincorporated area of Imperial County 2 miles west
22 of the City of Brawley. Imperial County is coordinating
23 with the City of Brawley to have utilities installed in
24 the Poe Colonia. As such, Imperial County has purchased
25 parcels for the installation of the community septic

1 system. And the parcels contained approximately 700 cubic
2 yards of solid waste.

3 In making the application to the Board for the
4 Board managed clean-up of this illegal disposal site,
5 Imperial County recognizes the Board's ability to perform
6 the timely remediation. The County has also outlined its
7 responsibilities and proposal to assist the Board in
8 minimizing the cost to discourage further dumping in a
9 letter dated May 10, 2005, which was recently distributed
10 to your offices.

11 In conclusion, I want to note that there is a
12 revise resolution, and that those revisions are merely
13 just corrections to the names of the grantees. Instead of
14 naming the specific county departments, we're going to
15 name the county as a whole as the grantee.

16 In conclusion, staff are recommending that the
17 Board approve the proposed grants and the Board managed
18 projects and adopt Resolution number 2005-150 revised.

19 CHAIRPERSON MULÉ: Thank you, Wes. We do have 2
20 speaker slips. First, Mr. Richard Gomez.

21 MR. GOMEZ: Good morning.

22 CHAIRPERSON MULÉ: Good morning.

23 MR. GOMEZ: I just want to take this opportunity
24 to thank you for considering our project, and offer myself
25 if you have any questions.

1 CHAIRPERSON MULÉ: Don't go far.

2 MR. GOMEZ: Okay.

3 CHAIRPERSON MULÉ: Imelda Cragin.

4 MS. CRAGIN: Good morning, Madam Chair and
5 Committee Members. I'm Imelda Cragin with the County of
6 Santa Barbara. And I'm also here to answer any questions
7 you may have about our grant program or a grant
8 application, and also to thank you for the consideration
9 of our application.

10 CHAIRPERSON MULÉ: Thank you for being here
11 today. Thank you both for coming here today. Do we have
12 any questions Madam Chair?

13 COMMITTEE MEMBER MARIN: Well, I know that
14 regarding the river, if Mr. Gomez. I want to know if this
15 is to -- it's a catch basing basin. Not catch basin.
16 What do you call those? The catch nets or whatever it is
17 that you guys are putting there.

18 This is only for a portion of the entire river,
19 right? You've done some of this in other places?

20 MR. GOMEZ: Yes, that's correct. We've done it
21 in several other locations. And we're focusing on the
22 catch basins that accumulate the highest amount of trash.

23 COMMITTEE MEMBER MARIN: Okay. Now, when we give
24 you this money, are you going to come back next year to do
25 other ones along the way?

1 MR. GOMEZ: Well, the situation is pretty severe,
2 but we're planning on finishing the 2 projects that we
3 have right now before we come back to the Board in the
4 future. But we'd like to be considered in the future, if
5 possible.

6 CHAIRPERSON MULÉ: We awarded them a grant last
7 June, I believe. Wes, if you want to go into that a
8 little bit, thank you.

9 SOLID WASTE CLEANUP PROGRAMS SUPERVISOR

10 MINDERMAN: That's correct. As I mentioned in my
11 presentation, the Los Angeles County Flood Control
12 District was awarded a grant for a similar project
13 addressing different sites last June in the amount of
14 \$750,000.

15 COMMITTEE MEMBER MARIN: So how many more
16 \$750,000 are we going to be willing to do? It's my
17 county. As far as I'm concerned, we can give them every
18 year a million dollars, you know, that's no problem. But
19 in fairness to all of the so many needs that we have, I
20 would not want you to think like next year we'll come in
21 with another 750. You know, I just don't see -- it's a
22 very significant amount for this particular project. And
23 L.A. county deservedly, you know, the biggest county in
24 this state, needs some attention.

25 And I know Mr. Washington and I wholeheartedly

1 believe that we should put some money out there. But my
2 concern is that there will be an expectation that because
3 we've already given you 750 last year, and now this, that
4 there may be the expectation that next year another 750
5 and so on.

6 So I want to caution the county in not
7 necessarily expecting that next year there will be another
8 750. You understand that?

9 MR. GOMEZ: Yes, I understand. And we thank you
10 for offering the previous grant to us. We are getting a
11 little bit closer to capturing as much trash out of the
12 high priority catch basins, which --

13 COMMITTEE MEMBER MARIN: I totally wholeheartedly
14 agree with the purpose of this. It's just that my concern
15 is that there will be an expectation for continuation of
16 that. I have -- I'm voting for it, because I believe in
17 what you're doing, and it's capturing the trash, and it's
18 creating our water system what goes into the river, you
19 know, cleaner. But it's a huge chunk of money. I mean,
20 we're giving 750 to L.A. County. What's the amount to
21 Santa Barbara County?

22 SOLID WASTE CLEANUP PROGRAMS SUPERVISOR

23 MINDERMAN: Santa Barbara County is \$61,000.

24 COMMITTEE MEMBER MARIN: And to Imperial is 150.
25 So you see what I'm saying?

1 MR. GOMEZ: Yeah. We will --

2 COMMITTEE MEMBER MARIN: Go back to our friends
3 in L.A. County and tell them that we really appreciate
4 what you guys do, it's just that we can't sustain this
5 level of commitment.

6 MR. GOMEZ: Okay. We'll take that into
7 consideration when we determine whether or not we'll come
8 in the future. So hopefully when we complete these
9 projects, then we'll look -- we'll take time to really
10 focus in on. And I'll talk to Wes Mindermann to see how
11 we feels about that. And if the Board doesn't feel
12 strongly about another project, then we won't apply.

13 COMMITTEE MEMBER MARIN: Thank you, Mr. Gomez.
14 I'd appreciate that.

15 CHAIRPERSON MULÉ: Howard, could you address
16 Board Chair Marin's concerns.

17 DEPUTY DIRECTOR LEVENSON: Certainly. I'd like
18 to make 2 points. First of all, before I get to your
19 point, these are great projects that we think are
20 worthy -- if the Board approves them worthy certainly of
21 regional media outreach and I want to just make sure that,
22 you know, we jump on that opportunity.

23 COMMITTEE MEMBER MARIN: Absolutely. I was going
24 to make that point for Colonia specifically. I mean, I've
25 been there. But this particularly is really good. All 3

1 of them are very good monies. It's money well spent.

2 DEPUTY DIRECTOR LEVENSON: With respect to your
3 comments about whether we should be funding more of these
4 projects, I'd like to direct you to Item 35, which will be
5 coming up later, and that's the scoring criteria for this
6 program for next year. So we certainly could consider,
7 you know, different ways perhaps different priority points
8 for projects that -- applicants that have had prior
9 projects or something along those lines. So I just flag
10 that to you.

11 COMMITTEE MEMBER MARIN: Thank you.

12 CHAIRPERSON MULÉ: Thank you.

13 Mr. Washington, did you have anything?

14 COMMITTEE MEMBER WASHINGTON: No, I'm fine.

15 CHAIRPERSON MULÉ: Okay. Any other questions or
16 comments?

17 COMMITTEE MEMBER MARIN: I appreciate Santa
18 Barbara being here today, I really do. And with that,
19 Madam Chair, I have no problem I move approval of
20 Resolution 2005-150 revised.

21 COMMITTEE MEMBER WASHINGTON: Second.

22 CHAIRPERSON MULÉ: Okay, I have a motion from
23 Board Chair Marin and seconded by Board Member Washington.
24 And we can substitute the previous roll, and also put this
25 on fiscal consent.

1 And our next -- thank you, Wes.

2 DEPUTY DIRECTOR LEVENSON: Wes is still going to
3 remain for the next.

4 CHAIRPERSON MULÉ: Oh, you're not done yet, are
5 you?

6 COMMITTEE MEMBER MARIN: Thank you and good bye.

7 CHAIRPERSON MULÉ: Okay. Next item.

8 DEPUTY DIRECTOR LEVENSON: Our next item is Item
9 34, item J, consideration of augmentation of the
10 Environmental Services Contracts and Engineering Services
11 Contract for landfill and disposal site remediation, the
12 contract numbers are in parentheses.

13 And this is will be presented by Wes as well.

14 SOLID WASTE CLEANUP PROGRAMS SUPERVISOR

15 MINDERMAN: Thank you, Howard.

16 As you may recall, the solid waste disposal and
17 codisposal site clean-up program currently uses 2
18 remediation contractors and one environmental engineering
19 services contractor to allow the Board to remediate sites
20 in a timely manner. Board staff are proposing in this
21 item to augment the 2 remediation contracts by an
22 additional \$750,000 each and the engineering services
23 contract by \$250,000 utilizing money previously
24 appropriated in the Solid Waste Disposal Site Clean-up
25 Trust Fund.

1 The augmentation of these contracts is needed to
2 complete existing Board managed projects and to allow the
3 Board flexibility in considering approval of additional
4 clean-up projects in the future.

5 This augmentation is also necessary, at least in
6 part, because of the size, complexity and urgency of some
7 of the more recent projects under taken by the program.
8 These augmentations will carry the program through the
9 current construction season and to the expiration dates of
10 the contracts which is May 2006, assuming, of course, no
11 additional large projects become necessary.

12 In addition, program staff anticipate awarding
13 new contracts through competitive processes prior to the
14 expiration of the current contracts. Program staff will
15 be working with the contracts office to revise the scope
16 and magnitude of the new contracts so that it will provide
17 additional flexibility to the Board in the future when
18 considering future projects.

19 That's essentially the first part of this item,
20 which is what I'm terming the standard augmentation part
21 of the item, which will be for just to keep the program
22 continuing until May of 2006 when these current contracts
23 expire.

24 The second part of this augmentation item will
25 allow the Board to augment one of the remediation

1 contracts by an amount necessary to be determined based on
2 the eligible costs for remediation at the BKK Landfill if
3 the Board chooses to do so at its future Board meeting.

4 So I think with respect to the standard
5 augmentation, staff are recommending that the Board -- or
6 that the Committee concur with the recommendations that
7 the contracts be augmented. With respect to the BKK
8 landfill augmentation, at this time, I think we'll just be
9 waiting for Board direction on that.

10 And that concludes my presentation.

11 DEPUTY DIRECTOR LEVENSON: And if I could just
12 pipe in and just summarize -- once again just reiterate
13 what Wes said. We have our 3 normal contracts that we use
14 for the clean-up program, 2 of them are construction
15 oriented and 1 is more investigatory. These were approved
16 by the Board a year or 2 ago with some initial funding.
17 And we're proposing to fully fund them. And in the mean
18 time, we will be going out through the competitive
19 processes for a new round of contracts. But these are the
20 contracts that we used for La Montana, National City
21 investigating different sites and so on.

22 So that's where we are today is to make sure that
23 we have the funds to work through this summer and then, as
24 Wes said, he'll be initiating the competitive process for
25 a new round of contracts.

1 CHAIRPERSON MULÉ: Great. And these contracts
2 are set to expire May of '06, correct?

3 SOLID WASTE CLEANUP PROGRAMS SUPERVISOR

4 MINDERMAN: That's correct.

5 CHAIRPERSON MULÉ: Okay. And before I take any
6 questions, I have a question for legal here. Our
7 resolution reads one way, and I don't know if that's
8 something that we need to revisit, because of the fact
9 that we're not considering the BKK portion or the
10 contractor that might be working on BKK.

11 DEPUTY DIRECTOR LEVENSON: Correct. And I
12 certainly would defer to legal. But just to clarify, we
13 will have an item before you at next week's Board meeting
14 regarding BKK. So one possibility might be to approve, in
15 concept, the 3 normal or traditional augmentations and
16 then put in abeyance any decision on BKK until after the
17 item is heard at the Board meeting.

18 CHAIRPERSON MULÉ: Right. Okay, so we would not
19 consider this resolution as it sits today. Okay, I just
20 wanted to make sure we got that clear.

21 Are there any questions for staff?

22 COMMITTEE MEMBER MARIN: No. I just -- I know we
23 had this conversation and that's why Howard kept
24 emphasizing that this was one from the previous. But any
25 new contract will be competitively bid.

1 DEPUTY DIRECTOR LEVENSON: As were these.

2 COMMITTEE MEMBER MARIN: As all of them -- with a
3 massive Request For Proposals or Request For Contracts for
4 whatever --

5 DEPUTY DIRECTOR LEVENSON: Right. In this case,
6 it would be Request For Qualifications for the engineering
7 services, but that would be broadly advertised,
8 absolutely.

9 COMMITTEE MEMBER MARIN: Thank you. You know, it
10 might be that we get the same people over and over again,
11 but at least we've done our job.

12 DEPUTY DIRECTOR LEVENSON: I would like to, if
13 there are no more questions, there may be some, but get a
14 sense of the Committee that you approve the 3 normal
15 augmentations for want of a better word.

16 COMMITTEE MEMBER MARIN: Well, I don't know,
17 since we don't have a -- because this is going to come to
18 the Board anyway. But I have -- well, just for the
19 record, I have no problem on that issue.

20 COMMITTEE MEMBER WASHINGTON: Yeah, I don't have
21 any problem.

22 CHAIRPERSON MULÉ: I think we have consensus on
23 those other 3 items. And then we'll just bring this item
24 to the full Board.

25 DEPUTY DIRECTOR LEVENSON: We will make a -- when

1 we get to this item of the full Board we'll make a short
2 presentation regarding the first 3 parts, but then
3 obviously we'll have to have more discussion on the
4 fourth.

5 CHAIRPERSON MULÉ: Correct, good.

6 Thank you, Howard. Thank you, Wes. Appreciate
7 that.

8 And I believe this will be our last Item, Item K,
9 Board Agenda item 35.

10 DEPUTY DIRECTOR LEVENSON: That's correct, Madam
11 Chair.

12 CHAIRPERSON MULÉ: Are you still there? We still
13 have Wes here, sorry.

14 DEPUTY DIRECTOR LEVENSON: Even where his bow
15 tie.

16 CHAIRPERSON MULÉ: Can't get rid of him.

17 (Laughter.)

18 DEPUTY DIRECTOR LEVENSON: Item K, yes will be
19 presented by Wes. This is consideration of the scoring
20 criteria and evaluation process for the fiscal year
21 2005/2006 and 2006/2007 Solid Waste Disposal and
22 codisposal site clean-up grant program. What a mouthful.

23 So we are looking at your discussion and approval
24 of the scoring criteria for this program for the next 2
25 fiscal years is what our proposal entails.

1 SOLID WASTE CLEANUP PROGRAMS SUPERVISOR

2 MINDERMAN: Than you, Howard, again.

3 You may recall that the solid waste disposal and
4 codisposal site program has under its funding mechanisms 2
5 grant programs. One is the illegal disposal site clean-up
6 grants and the other is the solid waste disposal site
7 matching grant program.

8 The item before you this morning is to consider
9 our grant scoring criteria and evaluation process for
10 fiscal year 2005/2006 and 2006/2007, which is outlined on
11 your Attachment 1. It is essentially the same scoring
12 criteria that we have used for this fiscal year.

13 In crafting those, staff were very careful to
14 make sure that all of the statutory prioritization
15 criteria and regulatory prioritization criteria were
16 carried over in these grant scoring criteria, in terms of
17 how we laid them out.

18 So how it goes is need is 40 points; goals and
19 objectives is 5 points; workplan is 15 points; evaluation
20 is 15 points; budget is 15 points; application
21 completeness, letters of support, experience, et cetera is
22 5 points; and evidence of a recycled content purchasing
23 policy or directive is 15 points.

24 It might be helpful if I outlined a little bit
25 how we did this fiscal year with respect to grants. The

1 Board awarded 7 grants totaling \$3.8 million. With
2 respect to the geographic funding split, although there is
3 no requirement currently or proposed in the scoring
4 criteria, it was a essentially a two-thirds funding split
5 going to southern California and one-third going to
6 northern California.

7 There were 4 matching grants and three illegal
8 disposal site clean-up grants. The evaluation process is
9 also outlined in your agenda item, and that also stays
10 essentially -- or is proposed to be the same as it was
11 last year. The only thing I would note is that we've
12 complied with all of the grant policy requirements
13 including permit compliance, Environmental Justice
14 certification and unreliable contractors.

15 The program is requesting a waiver from the
16 geographic distribution of funds, primarily because we
17 feel it's the intent of the program to address threats to
18 public health and safety and the environment, and that it
19 wouldn't be served to have a geographic distribution of
20 funds requirement on there. We would like to address the
21 highest priority sites in a timely manner.

22 In conclusion, staff are recommending the Board
23 approve the proposed scoring criteria and evaluation
24 process and adopt Resolution 2005-153.

25 That concludes my presentation.

1 CHAIRPERSON MULÉ: Thank you, Wes. Since we just
2 had this discussion, I'm sure that we want to bring up at
3 least one change.

4 Madam Chair.

5 COMMITTEE MEMBER MARIN: Yeah. I think that one
6 of the things that --

7 COMMITTEE MEMBER WASHINGTON: Madam Chair, before
8 you do that, in the wisdom of being on this Board for 3
9 years, I think it would be wise if we took this up for the
10 full Board that would include Ms. Peace in the discussions
11 as we go, rather than taking it up and then having her add
12 all her discussions into it. That would just be my
13 suggestion that this would be something that we would do
14 before the full board rather than trying to work through
15 it. And certainly I want to hear your comments as it
16 relate to that.

17 But I just believe that this is something that
18 should be taken up at the full Board so we can all have a
19 discussion on it at the same time.

20 CHAIRPERSON MULÉ: Okay, is that the pleasure of
21 the Committee?

22 Madam Chair.

23 COMMITTEE MEMBER MARIN: Let me just agree with
24 the wisdom of Mr. Washington. The wise man has spoken.
25 We should have this discussion with Ms. Peace's

1 involvement. But I do want to, for the record, I want to
2 suggest that there might be another little piece that we
3 add to the scoring criteria, and that consideration will
4 be given -- higher consideration -- more points will be
5 given to non-recurring applicants.

6 DEPUTY DIRECTOR LEVENSON: That's what I was
7 going to ask.

8 COMMITTEE MEMBER MARIN: And I believe whether
9 it's 5 points or 10 points, I mean it doesn't knockout
10 anybody else, you know, because the need may be so high
11 that even with all of that, you know, the City -- I'm
12 sorry, the County of L.A. may still be able to get it.
13 But I believe that we need to take into consideration that
14 there will be higher points, if you will, for
15 non-recurring proposals. What would you call it?
16 Contracts, whatever this is grants, applications.

17 Thank you.

18 DEPUTY DIRECTOR LEVENSON: We certainly will
19 address that. And in the interim before the Board meeting
20 we will revise the item to have at least a proposal for
21 you to consider. And we can go from there at the Board
22 meeting.

23 COMMITTEE MEMBER MARIN: Then I'll go with the
24 wisdom of Mr. Washington.

25 CHAIRPERSON MULÉ: No, I think that's a good

1 recommendation, but I also agree that if we could at least
2 get that one criterion, that would be helpful.

3 Okay. Thank you, Wes. You are finished now,
4 aren't you?

5 Only kidding.

6 SOLID WASTE CLEANUP PROGRAMS SUPERVISOR

7 MINDERMAN: I think in more ways than one.

8 (Laughter.)

9 COMMITTEE MEMBER MARIN: Can't get out of here
10 fast enough.

11 CHAIRPERSON MULÉ: Get me out of here.

12 Before we adjourn -- well, first of all, are
13 there any other comments from the public?

14 With that, we do have one more item that's not on
15 the agenda. And I just --

16 COMMITTEE MEMBER MARIN: Did you fill out a
17 speaker's release.

18 CHAIRPERSON MULÉ: I didn't know I needed to. I
19 guess we all will then.

20 I would like to mention that today is Deb McKee's
21 last day with the Board. And Deb has been an
22 administrative assistant for our board since October of
23 2000. Deb and her family are leaving California and
24 moving to Big Sky Country in Montana. She will be
25 attending the University of Montana in the fall and pursue

1 her degree in social science. Her long-term goal is to
2 teach American History at the high school level. Very
3 noble goal.

4 On behalf of all of our Board members, we want to
5 wish you success and happiness in your future endeavors
6 Deb. And thank you so much for all of your years of
7 service to the California Integrated Waste Management
8 Board as our administrative assistant.

9 We will all miss you very much. And we do have a
10 few -- we have a Certificate Of Appreciation from the
11 Board as well as, I believe Mr. Washington has something
12 things as well. So I guess, Deb, if you want to come up
13 here, please.

14 Yes, you've got to come up and receive these.

15 (Laughter.)

16 COMMITTEE MEMBER WASHINGTON: And while she's
17 coming Madam Chair, let me also add that the California
18 State Assembly, as well as the State Senate has decided to
19 recognize the efforts of Ms. McKee and we want to thank
20 her for all her service to the State of California,
21 likewise and we certainly will miss here.

22 Come on up.

23 COMMITTEE MEMBER MARIN: You get 3 for the price
24 of one.

25 CHAIRPERSON MULÉ: This is from our Board. It's

1 in appreciation for all of your work.

2 MS. McKEE: Oh, Mark, you signed it.

3 (Laughter.)

4 COMMITTEE MEMBER MARIN: This is from the Senate.

5 COMMITTEE MEMBER WASHINGTON: This from the

6 California State Assembly. Come on around.

7 MS. McKEE: This is embarrassing.

8 This is awful.

9 (Applause.)

10 COMMITTEE MEMBER WASHINGTON: Cry baby.

11 (Laughter.)

12 CHAIRPERSON MULÉ: But I will say that Deb is
13 leaving her duties in definitely competent hands with Sue
14 Kumpulainen. And, Sue, I really want to welcome you in
15 your new position, and I know we're going to enjoy working
16 with you very much as we have.

17 COMMITTEE MEMBER MARIN: And we have log books
18 for you.

19 (Laughter.)

20 CHAIRPERSON MULÉ: One more item of business
21 before we do adjourn. We are going to have a closed
22 session beginning at 1 p.m. So Ms. Carter if you can make
23 your announcement to us.

24 CHIEF COUNSEL CARTER: Yes, that closed session
25 will be for the full Board regarding potential litigation

1 pursuant to Government Code Section 1126(e)

2 CHAIRPERSON MULÉ: Okay. And with that this
3 meeting is adjourned.

4 Thank you very much.

5 (Thereupon the Board recessed into closed
6 session at 1:00 p.m. and adjourned the
7 meeting at 2:15 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board,
7 Permitting and Enforcement Committee meeting was reported
8 in shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said workshop nor in
13 any way interested in the outcome of said workshop.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 8th day of June, 2005.

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23 JAMES F. PETERS, CSR, RPR

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